

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-10964-mg

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5 In the Matter of:

6
7 CELSIUS NETWORK LLC,

8
9 Debtor.

10 - - - - - x

11 United States Bankruptcy Court

12 One Bowling Green

13 New York, NY 10004-1408

14
15 September 12, 2024

16 2:03 PM

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21 B E F O R E :

22 HON. MARTIN GLENN

23 U.S. BANKRUPTCY JUDGE

24
25 ECRO: UNKNOWN

1 HEARING re Status Update on Distributions and Preference
2 Settlements. (Doc ## 7676)

3
4 HEARING re Hearing Using Zoom for Government RE: Joint
5 Motion Seeking Entry of an Order (I) Authorizing
6 Supplemental Distribution to Eligible Corporate Creditors,
7 (II) Approving Procedures for Supplemental Corporate
8 Creditor Distributions, and (III) Granting Related Relief.
9 (Doc# 7661, 7665 to 7667, 7673, 7675, 7677)

10
11 HEARING re Hearing Using Zoom for Government RE: Post-
12 Effective Date Debtors Motion for Entry of an Order
13 Authorizing the Post-Effective Date Debtors to Redact and
14 File Under Seal Certain Confidential Terms of the
15 Supplemental Coinbase Agreement. (Doc## 7659, 7661)

16
17 HEARING re Hearing using Zoom for Government RE: Motion to
18 Compel Plan Treatment. (Doc# 4911 to 4914, 4916 to 4923,
19 4928, 4929, 4934, 4935, 4938 to 4940, 4944 to 4947, 4786,
20 4950, 4952 to 4954, 4956, 4958, 4959, 4961, 4963, 4964, 4966
21 to 4968, 4974, 4976, 4985, 4986, 4988, 5194 to 5197, 5594,
22 6569, 7535 to 7538, 7551, 7554, 7557, 7562, 7571, 7575,
23 7608, 7660)

24
25

1 HEARING re Hearing Using Zoom for Government RE: Motion to
2 Direct Celsius to Issue Australian Corporate Creditors with
3 Bitcoin (BTC) and Ether (ETH), not USD Cash, for those who
4 Remain Unpaid their Distributions in the Amounts of
5 Cryptocurrency that they Would Have Received for their
6 Claims as at the 15 January 2024 Prices Fixed by Celsius, or
7 in the Alternative, Motion to Compel that Celsius be
8 Directed to Issue Bankruptcy Proceeds to Australian
9 Corporate Creditors Only in USD Wire Transfers Rather than
10 Checks, ect. [sic] [Docket Nos. 6892, 7528, 7530, 7535,
11 7562, 7569, 7571, 7608, 7676, 7680].

12
13 HEARING re Hearing using Zoom for Government RE: Application
14 for Final Professional Compensation for RSM US LLP, Auditor,
15 period: 8/1/2023 to 11/9/2023, fee: \$1,247,374.45, expenses:
16 \$32,003.70. (Doc no. 4264, 4276, 4835, 4957, 4960, 3715,
17 4970, 7523, 7524, 7555, 7591, 7620, 7663) STIPULATION AND
18 ORDER ENTERED; SEE DOC. NO. 7524. HEARING Set for 9/12/2024
19 at 2:00 pm

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25 Transcribed by: Sonya Ledanski Hyde

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21
22 ALSO PRESENT:

23 CHRISTOPHER SONTCHI

24 SEAN XUE

25

1 P R O C E E D I N G S

2 THE COURT: Good afternoon, everybody. This is
3 Judge Glenn. We're going to move forward with the items as
4 listed on the amended agenda, and we'll start with the
5 status update on distributions.

6 MR. KOENIG: Good afternoon, Your Honor. It's
7 Chris Koenig, from Kirkland & Ellis, on behalf of Celsius.
8 Can you hear me okay?

9 THE COURT: I can.

10 MR. KOENIG: Wonderful. So we're just going to go
11 through the distribution slides that we go through every
12 month. We filed a presentation yesterday afternoon at
13 Docket Number 7676. Deanna, could you make my colleague,
14 Ms. Gabrielle Abbe, co-host so that she can share the slide
15 and we can walk through quickly?

16 THE COURT: And I have a copy in front of me, Mr.
17 Koenig.

18 MR. KOENIG: Thank you, Your Honor. So it's only
19 been about two and a half weeks since we updated these
20 figures. I'm just going to wait for it to be on the screen
21 for a moment.

22 THE COURT: Yeah.

23 CLERK: Okay. She's the co-host.

24 MR. KOENIG: Thank you so much. So it's only been
25 about two and a half weeks since we've updated these

1 figures, so you wouldn't expect a lot of movement. But
2 there has been improvement in the amounts of folks that have
3 successfully received cash transfers. So if you look at the
4 column on the right, two weeks ago we were at 26 percent of
5 FIAT distributions by number and now we're at 31 percent.
6 That's due to the rollout of Hyperwallet, which we announced
7 a couple of weeks ago. We're rolling it out on a rolling
8 basis to an increasing number of creditors every week. So
9 we expect to see those numbers continue to climb in the near
10 future.

11 As we explained in the quarterly report that we
12 filed at the end of August, most of the creditors that
13 haven't received cash simply haven't cashed a check.
14 There's about 5,000 checks outstanding that were sent to
15 creditors that were owed \$500 or less. We recently voided
16 those checks. They timed out after six months and we're
17 transitioning those folks over to Hyperwallet. We're
18 hopeful that trying their distribution through a new method
19 will be successful.

20 That was all that I had. It's only been two and a
21 half weeks since the last update we filed the report and Mr.
22 Ferraro spoke at the last hearing. So unless Your Honor has
23 specific questions on the distribution process, we're happy
24 to continue to go through the agenda.

25 THE COURT: I guess the only question I have is,

1 and maybe because the amounts are still -- the additional
2 distributions are relatively small, looking at the last line
3 on the page, there's been no change in the value distributed
4 or percentage of creditors distributed.

5 MR. KOENIG: Sure. So there has been change in
6 the subset of the cash amount. I would say for the PayPal,
7 Venmo and Coinbase folks, most of those folks have been
8 pending for upwards of six months. And it's sort of -- it's
9 on them at this point to create a Coinbase account or to
10 click a link in their email. We send folks emails every
11 time a distribution is attempted and isn't successful or
12 isn't claimed, reminding people, please go in and click the
13 link. Please go in and make a Coinbase account.

14 As I think we explained at the last hearing, we're
15 in the process of transitioning people over. If they've
16 been having trouble at Coinbase, they're sort of stuck in a
17 KYC process or something, we can transition them to
18 Hyperwallet. Those folks that we've been transitioning,
19 it's been very successful. So as we continue to scale that
20 up and roll that out, I expect that you're probably going to
21 see -- I expect you're probably going to see the most
22 movement in that third line, the Stretto Hyperwallet
23 because, frankly, we think it's the fastest, easiest way for
24 people to get their distributions. And we're going to be
25 transitioning people that have been stuck in one

1 distribution method or the other to that Hyperwallet
2 distribution method.

3 But as we've talked about, we expect that you're
4 going to have people that just, for whatever reason, never
5 take action. And as we explained in the quarterly report,
6 most of the creditors, by number, that haven't redeemed a
7 distribution have exceedingly small distribution amounts.
8 So it may just be that they don't want to take the steps
9 necessary to KYC to claim their distribution. But as I
10 said, we continue to follow up with them, with
11 communications, reminding them of what they have to do,
12 offering tickets if they're having some sort of problem.
13 But we certainly -- we don't expect that that number is
14 going to reach 99 or 100 percent based on -- just based on
15 creditor activity in the case. There are folks that, for
16 whatever reason, aren't going to cash a \$50 check.

17 THE COURT: All right. Thank you, Mr. Koenig. I
18 see Mr. Bronge's hand raised, but I'm not going to permit
19 anybody else to address this issue. We've got a long
20 agenda, and I appreciate, Mr. Koenig, the presentation was
21 on the docket. Let's move on to the next item, status
22 update on preference settlements.

23 MR. CURTIS: Good afternoon, Your Honor. Can you
24 hear me okay?

25 THE COURT: Mr. Bronge, please put -- Mr. Bronge,

1 please put your hand down. Okay. Who's going to --

2 MR. CURTIS: Good afternoon, Your Honor. Can you
3 hear me?

4 THE COURT: Yes, I can.

5 MR. CURTIS: Hi. This is Lucas Curtis, from White
6 & Case, appearing on behalf of the litigation
7 administrators. I'm going to give the court a brief update
8 on the status of the preference litigation settlements.

9 First, the settlement program passed a major
10 milestone last week. We have surpassed over \$100 million of
11 settlement commitments. The litigation administrator has
12 settled with approximately 1,800 parties, and the litigation
13 administrator continues to engage parties to the customer
14 preference actions in an effort to reach settlement and
15 resolve their preference liability consensually without need
16 for further litigation. To date, the litigation
17 administrator has received approximately 94 percent of
18 settlement payments owed, or more than \$90 million. The
19 litigation administrator thanks those parties who have
20 fulfilled their commitments under these agreements.

21 Nevertheless, there are approximately 100
22 counterparties who have failed to pay the amounts that they
23 owe. The litigation administrator has tried for months to
24 address these parties' failure to pay, but to no avail. We
25 have sent these parties multiple emails and letters

1 reminding them of their contractual commitments and the
2 potential remedies if they do not comply. Many of them have
3 not responded to these communications, despite the
4 litigation administrator's professionals using the same
5 contact information that was used through the course of
6 negotiating and executing settlements with these parties.
7 We are growing increasingly concerned that these parties
8 intend not to live up to their end of the deal. We think at
9 this point we need the court's assistance.

10 We therefore wanted to preview with the court that
11 the litigation administrator intends to file next week a
12 motion to enforce these settlement agreements against
13 parties who, despite all of our efforts, still have not paid
14 the full amount owed under their settlement agreements.
15 While the motion itself will detail the specific relief that
16 the litigation administrator is seeking, in sum, we plan to
17 seek an order from the court directing identified settlement
18 counterparties to pay the amounts they owe within 30 days.
19 We hope that a court order will cause these parties to
20 reengage and perform the terms to which they agreed. For
21 those parties who fail to follow the court's directive to
22 pay within the 30-day period, the litigation administrator
23 plans to file complaints against them, bringing causes of
24 action arising from the breach of the settlement agreement's
25 terms.

1 In the meantime, we would like to reiterate to
2 those parties who have settled and have failed to pay the
3 settlement amount, please pay your full settlement amount or
4 reach out to the litigation administrator's professionals
5 with any issues that there may be. If there are
6 circumstances that are affecting your ability to timely pay,
7 please contact litigation administrator's professionals so
8 we may address those concerns. We thank the court for its
9 time and are happy to address any of the court's questions.

10 THE COURT: I say just by looking at the docket in
11 the main case today, there were 11 adversary proceedings
12 that were closed. Going back, and there have been others, I
13 just quickly looked at those. Just briefly describe these
14 are what, settlements that have been effectuated where the
15 litigation administrator received the payments and the cases
16 are closed?

17 MR. CURTIS: So in the case of these voluntary
18 dismissals, yes, they were executed and we received the
19 settlement amounts under those cases. The ones that we are
20 referring to, that we would direct to enforce settlement
21 agreements, we executed the settlement agreements, but they
22 have not paid the full amount of what they owe by the time
23 allotted within the settlement agreement.

24 THE COURT: All right. Thank you very much. All
25 right.

1 MR. CURTIS: Thank you.

2 THE COURT: Let's move on. Let's move on to the
3 next item of agenda. It's the uncontested matters. First
4 is a motion to seal, which is at ECF Docket 7659. It's to
5 seal certain confidential terms of the supplemental Coinbase
6 agreement. Who's going to argue that?

7 MR. KOENIG: I am, Your Honor. Again, it's Chris
8 Koenig, Kirkland & Ellis, for Celsius. As you mentioned, we
9 filed the motion at 7659. This seeks to seal the economic
10 arrangements between Celsius and Coinbase in the
11 supplemental distribution addendum as commercial
12 confidential information pursuant to Section 107(b) of the
13 Bankruptcy Code.

14 More specifically, if the pricing that Coinbase
15 was willing to offer Celsius in order to resolve this motion
16 was publicly available, Coinbase's competitors could use
17 that information to their competitive advantage. Part of
18 the agreement with Coinbase was that we seek to seal this
19 information for exactly this reason. Coinbase
20 understandably does not want their competitors to obtain
21 confidential pricing information that would give them an
22 advantage. We sealed the economics of the first
23 distribution agreement with Coinbase as well. As you
24 mentioned, no parties objected to the motion. I'm happy to
25 answer any questions Your Honor has, but otherwise, we would

1 respectfully request sealing of this information.

2 THE COURT: The objection deadline on this motion
3 was 4:00 p.m., September 5. No objections were filed. The
4 motion is granted.

5 MR. KOENIG: Thank you, Your Honor. Next up is
6 the related joint motion to make a supplemental distribution
7 to corporate creditors. That's a Docket Number 7661. Your
8 Honor, we've had a number of hearings on this matter
9 already, so I won't go into too, too much detail on the
10 background. I'll just hit the high points.

11 This corporate creditor issue has been one of the
12 most complex and contentious issues since we emerged from
13 bankruptcy. Mr. Saracek, who represents the ad hoc group of
14 corporate creditors, filed a motion on behalf of the Faller
15 creditors back in early June at Docket 4911. We had an
16 initial hearing on this motion in July. And at that
17 hearing, Your Honor, although you did not rule, Your Honor,
18 suggested that we fix this issue with the corporate
19 creditors. So we have done just that.

20 We went to a two-day mediation with the ad hoc
21 group of corporate creditors, Coinbase, the litigation
22 administrator and the litigation oversight committee, and
23 certain other creditors who joined us at that mediation.
24 And that mediation was open to anyone who wanted to
25 participate. Guided by Judge Bentley, the debtors were able

1 to reach a term sheet that was signed by Celsius, the ad hoc
2 group of corporate creditors and Coinbase that resolves the
3 motion that was brought by Mr. Sarachek's group.

4 In short, the supplemental motion that we filed
5 two weeks ago provides for a streamlined process for
6 corporate creditors to receive the liquid cryptocurrency
7 that they would have received under the plan if they were
8 initially scheduled for a liquid cryptocurrency distribution
9 back in January of this year. That is, these corporate
10 creditors will receive an amount of crypto that would give
11 them approximately 58 percent of their claim at the January
12 16th prices that we use to calculate distributions under the
13 plan.

14 Now, we've talked at several hearings and
15 explained in all of our court papers how complicated and
16 time consuming the KYC process is for corporate creditors,
17 because applicable regulations requires that these
18 corporations provide significant corporate organizational
19 documents and beneficiary information, and then for the
20 distribution agent, here, Coinbase, to have senior
21 compliance agents, often lawyers, review all of these
22 corporate organizational documents and other KYC
23 information. And that's to make sure that the beneficial
24 owners of the corporation are not on some sort of a banned
25 list, restricted list. They aren't a Russian oligarch or on

1 a terrorist watch list or something like that. The
2 difficulties in the KYC process remain. They don't
3 magically go away simply because we have a resolution on the
4 motion.

5 So although there is an option for every corporate
6 creditor to receive cryptocurrency from Coinbase under this
7 supplemental motion, we do expect that an equivalent amount
8 of cash will be much faster for these creditors. So what
9 we've done is we've given people the option to receive cash
10 instead at today's market prices, or the market prices at
11 the time that we sell their crypto, and that'll allow them
12 to get their distributions faster and they can do whatever
13 they want with it. If they want to buy back into the
14 cryptocurrency market and continue to ride the market, they
15 can absolutely do that. And if they want to spend the cash,
16 obviously they can do that as well.

17 But from talking to Mr. Saracek and other
18 corporate creditors, we believe that most corporate
19 creditors would prefer to receive the market value of that
20 crypto now quickly in cash, so that they can use it to buy
21 back into the market, rather than wait what may be an
22 extended period of time to go through the extensive
23 onboarding and KYC process with Coinbase to receive a
24 cryptocurrency distribution. But of course, if there are
25 folks that feel strongly and they want to receive a crypto

1 distribution from Coinbase, they can go through the
2 onboarding process, and if they are successful, they will
3 receive a cryptocurrency distribution from Coinbase.

4 But again, what we're trying to do here is giving
5 corporate creditors the same treatment under the plan that
6 individual creditors have. They have liquid cryptocurrency
7 at January 16th prices, or its equivalent in market prices
8 in cash if they want to get their distribution faster; that
9 is, implementing the plan and complying with the terms of
10 the plan.

11 There were two objections to the motion, one from
12 the U.S. trustee and one from an individual creditor. The
13 main point of the U.S. trustee in its objection was that
14 this is somehow a plan modification that shouldn't be
15 allowed. I'm somewhat perplexed by that argument. What
16 we're doing here is giving corporate creditors the amount of
17 liquid crypto that they would have been entitled to on
18 January 16th, or because we all understand it's going to
19 take a bit of time if all corporate creditors elect that
20 option, we'll convert that liquid crypto to cash at market
21 prices and give it to them faster. The plan provides for
22 conversion of crypto to cash at market prices, or vice versa
23 if a distribution agent changes for any particular creditor.
24 So again, this is not plan modification. This is plan
25 implementation.

1 Your Honor indicated at the last hearing that you
2 thought that providing liquid crypto to all corporate
3 creditors is what the plan requires. That is what we are
4 doing with some procedures for creditors to choose to get
5 cash if they want to receive a distribution faster.

6 The objections also talked about why the
7 distribution are coming from the disputed claims reserve.
8 But if the plan requires us to make these distributions to
9 corporate creditors, then the debtors have to use their
10 assets and make these distributions under the plan. And the
11 reserve is for disputes about claims, just like the
12 corporate creditor motion. And notably, we used this
13 reserve before when we filed the motion earlier this year to
14 fix the convenience claim issue, where we had a number of
15 creditors that complained that they had erroneously checked
16 the wrong box, and we filed a motion seeking authority to
17 allow them to rescind that election and receive a greater
18 distribution. We used that reserve for that issue as well,
19 because that's what it's for. It's for disputes about
20 claims and distributions under the plan. We used
21 approximately \$20 million in liquid cryptocurrency from the
22 reserve for that motion.

23 So again, here we are giving corporate creditors
24 what they are entitled to under the plan. We are treating
25 them the same as individual creditors. If that is what the

1 plan requires, then individual creditors are not harmed
2 unfairly. We are just giving fair treatment to corporate
3 creditors.

4 Notably, we have a supplemental agreement with
5 Coinbase to help implement this distribution to corporate
6 creditors. Most importantly, the term of the existing
7 distribution agreement with Coinbase expires in early
8 November of this year. So even if it is true that under the
9 existing agreement, we could compel Coinbase to make
10 distributions to corporate creditors, that agreement would
11 run out in November. My assumption is that not too many
12 corporate creditors would be successful in receiving
13 distributions over the next two months. So we needed to
14 solve that problem, and that would require Coinbase's
15 agreement. And so Coinbase agreed, after arm's length
16 negotiations, that for any creditor that submits, any
17 corporate creditor that submits the onboarding package, the
18 KYC package, Coinbase will work through the onboarding
19 process with that creditor, even if it happens after the
20 agreement expires in November. If that creditor is
21 ultimately successfully onboarded, whenever it is, whether
22 it's before November or after November, they will get a
23 distribution from Celsius through Coinbase.

24 We've been sort of calling this the standing in
25 line when the polls close provision. If you're in line and

1 the polls close, you still get to vote. Here, if you've
2 submitted your onboarding package to Coinbase, they will
3 work through the onboarding process even after their
4 contract ends, no matter how long it takes. I think that's
5 a pretty significant concession.

6 The objections took issue with Coinbase not
7 contributing monetarily to the settlement, but they're
8 absolutely contributing in a very material way through this
9 supplemental agreement. We could not make these
10 distributions to corporate creditors without them. The
11 objections seem to suggest that we should be suing Coinbase,
12 but litigation with Coinbase would be expensive, complex,
13 and frankly, an uphill battle. There are limitations of
14 liability in their contract, and Celsius did not issue
15 formal instructions to Coinbase for more than 100 corporate
16 creditors. So we're pleased to be able to reach this
17 supplemental agreement with Coinbase that will give an
18 option for the corporate creditors who really want to
19 receive crypto to receive their distribution in crypto.

20 The last thing that I wanted to say in my opening
21 remarks is that we filed a separate statement that sets
22 forth our perspective, Celsius's perspective of the relevant
23 facts that gave rise to the corporate creditor motion in the
24 first place. At the hearing in July, Your Honor had some
25 important and pointed questions and we wanted to make sure

1 that Your Honor had answers. That's filed at Docket Number
2 7660. And White & Case, as counsel to the former committee,
3 filed its own statement of relevant facts at Docket Number
4 7662.

5 With that, I know that there are two objections.
6 I'm sure Your Honor may have questions for me, so I'm happy
7 to take whatever initial questions Your Honor has. And if
8 not, I'm happy to hear from the objectors and come back
9 after we hear what they have to say.

10 THE COURT: Before we do that, this was filed as a
11 joint motion. Let me hear from anyone else who wishes to
12 speak in support of the motion and then I'll turn to the
13 objectors.

14 MR. SARACHEK: Thank you, Your Honor. Joe
15 Sarachek. We support the comments made by Mr. Koenig.
16 We've been working on this matter since March when we were
17 first engaged by the Faller creditors. Subsequently, since
18 July 29th, we have been representing a committee of
19 corporate creditors advocating on a much larger class of
20 1,800 corporate entities around the world. We've spoken to
21 the largest creditors and to some very small ones. We have
22 also had extensive communications with the group that filed
23 the Australian creditors' motion. This settlement was
24 derived after two full days of mediation with Judge Bentley,
25 numerous emails, conversation, analysis between members of

1 our team, the committee, the committees involved in the
2 case, and also parties who filed joinders who were privy to
3 the mediation and gave us their input. Simply put, this
4 joint motion restores creditors to where they should be
5 under the plan and the settlement is authorized under the
6 plan and is being effectuated post-confirmation. We urge
7 the court to approve the settlement. Thank you.

8 THE COURT: Let me ask either you or Mr. Koenig,
9 how, if at all, does this settlement, if approved, apply to
10 those who have not specifically joined in the motion?

11 MR. KOENIG: I'm happy to address that, Your
12 Honor. So any eligible corporate creditor has the option.
13 They do not have to file a joinder. They did not have to
14 appear in the mediation. They do not have to -- everybody
15 will get a form. Now eligible corporate creditor is defined
16 in the motion. The most important limitation is they have
17 to be organized in a jurisdiction that Coinbase can make a
18 distribution to because if Coinbase couldn't have made a
19 distribution --

20 THE COURT: I mean, so the plan was always -- and
21 the plan related documents were always quite clear that
22 Celsius was only obligated to distribute to corporate
23 creditors in a jurisdiction in which there was a
24 distribution agent who was licensed to do that.

25 MR. KOENIG: You took the words right out of my

1 mouth, Your Honor. The other restriction is convenience
2 class creditors will only get the cash option. That's
3 simply because the convenience class was always designed to
4 be convenient. And these folks have claims of less than
5 \$5,000. And frankly, we all expected that, given the
6 lengthy KYC process with Coinbase, that people with small
7 dollar amounts would probably prefer to get their
8 distribution quickly instead. Those are the two
9 restrictions on eligible corporate creditors. So everybody
10 else will get some sort of a notice.

11 I guess the other thing I should say is there may
12 be a creditor whose claim is not allowed. They have
13 preference exposure. They're an equitably subordinated
14 creditor. So their time will come at the appropriate time,
15 whenever their claim is either allowed, or, I guess if it's
16 not allowed, they won't ever get a distribution. So
17 anybody, they don't have to file a joinder. This applies to
18 everybody in the class, everybody similarly situated, that
19 is an eligible corporate creditor as defined in the motion.

20 THE COURT: All right. Thank you. So there are
21 two objections. The amended objection of Sean Xue, which is
22 ECF 7661. Mr. Xue, do you want to be heard?

23 MR. XUE: Yes, Your Honor. So I think to start,
24 right, have you read my objection? Do you want me to read
25 it? And then also my response?

1 THE COURT: I've read it. I've read all the
2 papers relating to this. I'll give you a chance to make
3 your argument, but you shouldn't just read what you filed.
4 Okay.

5 MR. XUE: Oh, I mean, I have more than that. But
6 I figure if you haven't read it, I read it to you. But
7 okay, so firstly, Your Honor, I want to thank you for all
8 the work you've done in this case. My intent from this
9 objection is to raise questions, questions that believe is
10 not being answered to a neutral party.

11 Most creditors have stopped following this case
12 now that most of the crypto in the first distribution has
13 been distributed, and hence are not aware of the potential
14 impact of this on their second distribution. I probably
15 would not have known about this either if I wasn't following
16 the docket while waiting for my first distribution.

17 So, in my objection, so, firstly, with the UCC no
18 longer in existence, there was no party that represented all
19 creditors in the mediation. The debtor counsel led the
20 mediation with expressed interest to arrive at a solution
21 that (indiscernible) their own culpability for an error they
22 and their client are responsible for. In a court hearing on
23 July 29th, Your Honor stated to a debtor counsel that,
24 "There will have to be discovery that you're going to pay
25 for, and that's what's going to happen, and you're going to

1 pay for it. When I say you, your firm, your law firm is
2 going to pay for it." Hence, there's a clear motivation for
3 the debtor counsel to have this problem go away by having
4 one group of creditors pay off another group of creditors at
5 no cost to a debtor counsel themselves.

6 Furthermore, in the same hearing, Your Honor
7 stated about Coinbase that, "There's a very strong argument
8 that Coinbase breached its contract. It is Coinbase's
9 refusal to distribute to more than 100 corporate creditors
10 that created this problem in the first place. Yet the
11 consequences of this potential breach of contract are only
12 borne by creditors. In a proposed settlement, Coinbase is
13 only offering to perform the services that they should have
14 done according to the contract. This then begs the
15 question, if there's liability, why is Coinbase not being
16 pursued? And if there's no liability, why is the settlement
17 agreed to by the debtor counsel? And the debtor's counsel's
18 response does not answer the question of conflict of
19 interest at all. In their response, the assumption is that
20 all the litigation costs are borne by the estate. The
21 debtor counsel made no mention of the specific quote that I
22 referenced. I believe this is a key point that requires
23 clarification for Your Honor.

24 Secondly, the settlement will allow many creditors
25 to receive more than the number of Bitcoin Ethereum than

1 they would have been distributed as of the effective date.
2 The choice to use average value for those that have already
3 received distribution FIAT when the current market prices
4 are significantly lower gives those that already received
5 distribution if you had more Bitcoin and Ethereum than they
6 would have received at effective date.

7 Here's my objection. I have a distribution
8 breakdown for creditors who have already received FIAT 96
9 million USD already distributed, as well as the cost to the
10 estate which the debtor, the counsel never mentioned in any
11 of their filings. Just to show -- I will get back to that
12 later, but just to show the absurdity of this formula,
13 current Ethereum prices is lower than the effective day
14 price, yet additional payment of Ethereum is still due to
15 those that already received distribution.

16 Furthermore, there's no distinction made between
17 corporate creditors who elected to receive FIAT distribution
18 versus who elected to receive crypto but were refused. The
19 creditors who opted to receive or have already received FIAT
20 are effectively given downside protection to the price of
21 Bitcoin Ethereum. This downside protection is not free, and
22 the cost is borne by creditors not party to the corporate
23 creditor ad hoc.

24 In a response, the debtor counsel claims that the
25 dollar value of supplemental distribution is \$14 million.

1 That's on Docket 7677, Page 10. This number is incorrect.
2 In my detailed illustration of the cost to the estate as of
3 September 3rd, which is fairly close to what it's looking
4 like now, focusing on the impact of true-up on \$96 million
5 that was already distributed in USD, the net cost of that
6 alone is \$32 million, highlighted in the QB distributed
7 average value in my illustration. Even looking at the
8 debtor counsel's example in Docket 7661, Page 13 --

9 THE COURT: Slow down. I appreciate it. I'm
10 listening, but just slow down so we can follow you. Go
11 ahead. Go ahead.

12 MR. XUE: Sorry, sorry. So where was I? The net
13 cost of that alone is \$32 million, highlighted in QB
14 distributed average value in my illustration. Even looking
15 at the debtor counsel's example in Docket 7661, Page 13, it
16 is clear that the cost is not just \$14 million. In this
17 example, on initial USD distribution of around \$68,000 and
18 an additional distribution of 0.665 bitcoins and 7.71
19 ethereum is projected, which is worth around \$24,000 at
20 current prices, or roughly 36 percent of the initial
21 distribution. Now, 36 percent of \$96 million is obviously
22 not \$14 million, and this isn't including the 15 percent
23 that has not been distributed.

24 The debtor counsel appears to be just looking at
25 the crypto appreciation, assuming that the net cost to this,

1 assuming that is the net cost to the estate, which I also
2 show in my illustration as to be distributed using current
3 value. This is certainly the more sensible formula, but
4 it's not a formula that they're proposing to use.

5 The debtor counsel claims that the formula is due
6 to, "Liquid cryptocurrency would have been sold as close as
7 reasonably practicable to the anticipated cash
8 distribution." However, to my knowledge, no liquid crypto
9 due to creditors having sold yet in the bankruptcy. All
10 this further highlights my concern that a cost to the estate
11 is of no importance to the debtor counsel, as long as
12 they're off the hook for any costs that they may have to
13 incur themselves.

14 Lastly, the requested \$1.5 million professional
15 fees are excessive. This far exceeds the fees granted to
16 all other ad hocs involved in the case combined, which adds
17 to \$361,000. And these were ad hocs who spent many months
18 longer working towards a consensus to have the plan passed.
19 The settlement parties may argue that this also pays for the
20 services of having a dedicated point of contact. However,
21 why is this service not performed by the plan administrator?
22 And why does it only cover a small group of creditors, many
23 of whom have already received distribution, when there are
24 multiple times more creditors outside of the corporate
25 creditors group who have yet to receive any distribution?

1 By the debtors' own count, 32 percent of the creditors have
2 yet to receive a distribution which was shown on the slide
3 earlier.

4 The debtor counsel's response to this is
5 essentially that they can do as they please. I don't think
6 there's any argument that this fund is not coming from
7 future creditor. It's not coming from future creditor
8 distribution. Why is there no accountability required? Is
9 three times the cost of all other ad hocs combined
10 reasonable? Or is it just a means to make the problem go
11 away for the debtor counsel?

12 And finally, I also want to address the
13 convenience class. So finally, the debtor counsel mentioned
14 in the response that there were no objections to the
15 previous distribution from the reserve to the convenience
16 class creditors. I personally did not file an objection due
17 to the fact that many people with large claims were severely
18 impacted and getting pennies on their dollars on their life
19 savings. Furthermore, there was no question of conflict
20 interest, and the numbers were reasonable.

21 THE COURT: Mr. Xue, the issue about the
22 convenience class is just not before me. We're not
23 revisiting what was --

24 MR. XUE: Okay. I'm not arguing that. I'm just
25 saying like that was brought up and hence like that was the

1 question. Right? And that's my response to -- my response
2 to that. I'm not looking to revisit that issue.

3 So I conclude with creditors outside the corporate
4 creditor ad hoc have no issues with any compensations that
5 is awarded if it's coming from debtor counsel and Coinbase.
6 However, the reality here is that non-corporate creditors
7 are being used to pay off corporate creditors so the debtor
8 counsel and Coinbase can avoid all potential liability. The
9 moral hazard of bankruptcy professionals cutting corners to
10 meet their incentive deadlines and receive the incentive
11 award should not be ignored. Thank you.

12 THE COURT: Thank you very much. All right. The
13 other written objection is by the U.S. trustee, which is ECF
14 7667. Ms. Cornell?

15 MS. CORNELL: Good afternoon, Your Honor. Shara
16 Cornell, with the Office of the United States Trustee. I
17 know Your Honor has read all the papers, so I'm going to
18 keep it very brief today. The facts are the facts. What
19 the debtors are proposing modifies the confirmed and
20 substantively consummated plan. I understand the desire for
21 a quick fix, but the Bankruptcy Code and the bankruptcy
22 rules exist for a reason. Whatever relief the debtors seek,
23 it must be done properly and pursuant to the statutes.
24 Until the following questions are answered, the relief
25 sought by the debtors should not be approved. First, how do

1 you have a 9019 settlement for a class of creditors when
2 only nine creditors agree to it? Counsel to an ad hoc
3 committee is just not a fiduciary to a class of creditors or
4 to anyone else.

5 THE COURT: Well, at this point, Ms. Cornell, I
6 mean, it's clear it's available to all corporate creditors
7 who wish to join the settlement, whether they were part of
8 the ad hoc group or not. I mean, I take that point, but
9 that was -- I think I asked Mr. Sarachek about. I think Mr.
10 Koenig is the one who answered. But I wanted to be clear
11 that this proposed settlement doesn't sort of cherry pick a
12 small, relatively small group of corporate creditors. This
13 issue, that I was the one who raised -- well, I did not
14 raise it in the first instance. There were many corporate
15 creditors who had filings with the court that raised this
16 issue. It went forward. Anyone who wanted to participate
17 in the mediation could. But this is not a settlement that
18 is limited to just those corporate creditors who
19 participated in the mediation.

20 MS. CORNELL: No, and your point is well taken,
21 Your Honor. However, the parties in which Mr. Sarachek was
22 negotiating on behalf were just nine creditors. He's not a
23 fiduciary to the estate. But again, I understand what Your
24 Honor is saying. Second, how is this --

25 THE COURT: It would have been impractical to have

1 a hearing with every potential corporate creditor, no matter
2 their size. If this issue is not settled and it's
3 litigated, it potentially involves many, many corporate
4 creditors, large and small, and it would be a very expensive
5 and time consuming litigation. So I'm not -- yes, I have to
6 fairly judge this settlement, whether it's fair and
7 reasonable and in the best interests of the estate. But the
8 fact that Mr. Sarachek only represented nine creditors,
9 there are many who can take advantage of this settlement.

10 And I guess one of the things that I'm not
11 persuaded about, Ms. Cornell, is when I raised this issue,
12 it seemed to me that the result essentially was reached.
13 There were issues that had to be settled as part of it was
14 this implements what I understood the plan to originally
15 contemplate and provide for. This is not a change in the
16 plan. That's what bothered me about it when I raised the
17 issue. There was no hundred creditor limit for Coinbase in
18 dealing with corporate creditors. That's why I raised this
19 issue. There were many disgruntled corporate creditors who
20 wanted crypto distributions who weren't within the top
21 hundred. And it seemed to me, I don't have to resolve this
22 issue if I approve the settlement, is that on the face of
23 the documents it appeared this is exactly -- the result here
24 is exactly the way I, without resolving the issue, initially
25 read the documents, the plan supplement, and the various

1 other agreements. So I don't see -- I mean, what is it that
2 you think requires a modification of the plan? I mean, this
3 is exactly contrary to what I was -- what I raised the
4 issue.

5 MS. CORNELL: Well, Your Honor, that brings me to
6 my next point. You are removing money from an escrow under
7 the plan that was dedicated --

8 THE COURT: You'd like to just unwind the whole
9 case rather than -- look, there are -- in many cases I've
10 had over the years, there are settlements and disputes.
11 They get resolved. They have to get paid for in some way.
12 Okay. I'm not sure what it is you want. You just want to
13 unwind the whole case when this -- it seems to me this
14 resolution is consistent with what I understood the plan to
15 provide for? So what is it you want?

16 MS. CORNELL: Your Honor, I understand your
17 comments. However it is --

18 THE COURT: No. Tell me what you want. What's
19 the result you're asking for?

20 MS. CORNELL: Your Honor, it's not my
21 responsibility to fix this.

22 THE COURT: It is -- it is your responsibility to
23 answer my question. What's the result that the U.S. trustee
24 is asking for, given that this dispute has arisen?

25 MS. CORNELL: Your Honor, I can't answer that.

1 The debtors need to satisfy the statute and the rules --

2 THE COURT: They need to satisfy me that 9019 is
3 satisfied. But if you don't want to answer the question --
4 you've objected. I've read it. I don't understand your
5 objection. It seems to me that the result that this
6 settlement would implement is consistent with the plan. It
7 doesn't need a modification of the plan to achieve it. You
8 argue otherwise. I don't know what it is you want to
9 accomplish and you won't tell me.

10 MS. CORNELL: Your Honor, with all due respect --

11 THE COURT: Do you want the plan -- do you want
12 the plan vacated? Go to the appellate court. Okay. What
13 is it you want? You've not told me what you want. You've
14 told me you objected. I'm not saying -- I tried to make
15 this clear at the last hearing. Okay. There may be issues
16 that come up on final fee applications and things like that,
17 but they don't have to do with today's issue of whether or
18 not this settlement gets approved. So what is it you want?
19 You tell me. I'm asking, giving you one last chance to tell
20 me what is the U.S. trustee's position about how this
21 problem should be solved. What's the plan modification you
22 think is required that you're arguing for?

23 MS. CORNELL: Well, for starters, Your Honor, I'm
24 extremely concerned about the payment of fees to the ad hoc
25 committee counsel out of this pot that was not previously

1 contemplated under the plan. That is a plan modification.
2 That's \$1.5 million out of a pot that was not previously
3 contemplated.

4 THE COURT: What else?

5 MS. CORNELL: The reserves itself. Those were not
6 funds that were going to be used for corporate
7 distributions. The debtor has yet to identify what pot they
8 were going to use for corporate distributions and how it is
9 in fact the same pot, as Mr. Koenig keeps saying, that this
10 is not a modification. If it's not a modification, then the
11 funds that they're using to pay out corporate creditors
12 would be the exact same funds that they were planning on
13 using under the plan, which they're not. It's a new pot.

14 THE COURT: What else?

15 MS. CORNELL: That's the crux of it, Your Honor.

16 THE COURT: Okay. You didn't object when the
17 problem with the convenience class was fixed and that
18 resulted in payment of funds as well. You didn't object at
19 that time. What's the difference?

20 MS. CORNELL: Your Honor, the difference is that
21 we're dealing with this now, with this issue, as you just
22 told Mr. Xue, that we're not looking to unwind that. And
23 we're also dealing with attorney's fees that are in excess
24 of millions of dollars. It is a difference, and it is an
25 important difference. And it's material. The pot has

1 changed.

2 THE COURT: All right. Anything else?

3 MS. CORNELL: No, Your Honor.

4 THE COURT: Anything else?

5 MS. CORNELL: No, Your Honor.

6 THE COURT: Mr. Koenig, do you wish to respond?

7 MR. KOENIG: I do, Your Honor. Can you hear me
8 okay?

9 THE COURT: Yes, I can.

10 MR. KOENIG: Thanks. I'll start with Ms. Cornell
11 and I'll be brief. She complained about it being with nine
12 creditors. The mediation was open to all creditors. We
13 specifically served notice of the mediation on all 1,900
14 corporate creditors. And in fact, many of them, in addition
15 to Mr. Sarachek's group, joined the mediation. I don't want
16 to say anything more than that because of the mediation
17 privilege, but it's not like it was just nine creditors.

18 The reserve is not dedicated to anyone in
19 particular. Both objectors raised this point. If you look
20 at the definitions in the plan, the reserve is for disputes
21 about claims. If the plan requires that the debtors make a
22 distribution to a particular creditor, we have to use our
23 assets to make that distribution. The reserve is the spot
24 that it should be made from. But if the plan requires me to
25 make a distribution, I think I have to use my assets on hand

1 to make that distribution. I think it's important to note
2 that the other creditors don't have any interest in that
3 reserve right now. They have what I would describe as a
4 contingent or remainder interest that once all other claims
5 get their distribution under the plan or not, if disputed
6 claims are disallowed, whatever remains at the end of that
7 process will be distributed to other creditors. But it's
8 not as though they have some sort of current interest in the
9 reserve. The reserve is there to make sure that creditors
10 get what they are entitled to under the plan. And that is
11 exactly what we --

12 THE COURT: What's the amount of the reserve?
13 What's the amount of the reserve, Mr. Koenig?

14 MR. KOENIG: What is the amount of the reserve?
15 So it was sized initially for \$500 million of disputed
16 claims in case they all became allowed. And the current
17 size of the reserve is -- I think it's about \$300 million
18 today. It's in our papers. I just don't have the number in
19 front of me.

20 THE COURT: Go ahead.

21 MR. KOENIG: And so the reserve is built for
22 contingencies like this one. We used it for the convenience
23 class issue before. And if Your Honor finds that the plan
24 is required -- that the debtors are required to make a
25 distribution to corporate creditors under the plan, we have

1 to use our assets to do so. And of course it comes from the
2 reserves, because that is what the reserves are for. It is
3 not as though earned creditors are going -- I should say, is
4 not as though individual creditors will receive less. All
5 we are doing is giving corporate creditors that to which
6 they were entitled under the plan. It's not knocking down
7 individual creditors. It's bringing up corporate creditors.

8 On the fees issue, the plan provides that we can
9 settle issues post-emergence and make payments, including
10 payments to professionals, without further court order. We
11 of course, wanted disclosure and we wanted to seek court
12 approval of of those fees. But Ms. Cornell conceded in her
13 objection that the substantial contribution standard no
14 longer applied because we're now post substantial
15 consummation. And that's the difference between the ad hoc
16 groups that sought fee payments from Your Honor. They
17 performed services during the case when substantial
18 contribution applied. We think that this is different. We
19 think that this occurred -- we think that this occurred
20 after.

21 As for Mr. Xue's objection, many of my comments
22 remain the same. He took some issue with the calculation.
23 It doesn't really make sense to get into the nuts and bolts
24 of the calculation. I think it's beside the point. If the
25 plan requires it, we have to pay it. And frankly, our \$14

1 million is an estimate. If crypto prices go up, then the
2 amount of that liquid crypto will be higher. If prices go
3 down, it will be lower. It's just an estimate. But I don't
4 think that if it's \$15 million or \$20 million or \$40
5 million, I don't actually think it changes the analysis for
6 Your Honor. If the plan requires it, we have to pay it. We
7 have to pay.

8 Mr. Xue seems to be arguing that his distribution
9 will be lower because of this. But we have to pay all
10 creditors their distributions under the plan before we can
11 make any distributions from reserves to the other creditors.
12 As I said earlier, if the plan requires me to pay a
13 creditor, we have to pay that creditor first before we can
14 take the amount that was allocated in reserve and give it
15 out to everybody else. Corporate creditors are simply
16 getting what individual creditors already received under the
17 plan, and that is the crux of the settlement.

18 Mr. Xue also talked about the average value for
19 people that already received cash distributions. The reason
20 we did it like that was we had to do something for people
21 that already got a distribution. And it wasn't fair -- if
22 you received cash, it wasn't fair to make a creditor give
23 the money back to us just so we could round trip it back to
24 them, either in liquid cryptocurrency or cash. We thought
25 that that would impose an unfair burden on a creditor who

1 may have used that money to pay down a debt or make an
2 investment or whatever they decided to do with it. It
3 wouldn't be fair to make them give the money back to us. So
4 we had to come up with some sort of a crediting mechanism,
5 an offset mechanism. And that was frankly the most
6 complicated and contentious part of the negotiation that we
7 had in the mediation. The global settlement is complicated,
8 but it was -- you know, it was what we reached in mediation
9 over two days with Mr. Sarachek's group, and we think it's
10 fair and reasonable and should be approved.

11 I think that that was everything that I had. I
12 think that that was everything that I had in my notes. But
13 if Your Honor has any questions for me, I'm happy to address
14 them.

15 THE COURT: Mr. Sarachek, briefly, anything else
16 you want to add?

17 MR. SARACHEK: No, Your Honor. Well, I will say,
18 and I think you brought this up, if we don't settle this
19 now, and I do believe this is an appropriate settlement, the
20 litigation that we're looking at, let's say, class action
21 type litigation, the expenses associated with that, and we
22 did talk to Judge Bentley about this, will be absurd, you
23 know, and it will go on for a long, long time, and it will
24 be a true injustice.

25 THE COURT: I've heard enough. I'm going to take

1 the matter under submission and the matter will be resolved
2 in an opinion or order in due course. All right. Let's
3 move on, on the agenda. I'm not going to hear anyone else,
4 only those who filed papers on it. So if you raise your
5 hand, but you didn't file papers, I'm not listening to you.

6 MR. KOENIG: Thank you, Your Honor. I believe
7 that that takes us to the RSM fee application, because the
8 next two items on the agenda were the corporate creditor
9 motion and the Australian creditor motion, which are
10 resolved by the settlement motion. I realize Your Honor
11 hasn't ruled on the settlement motion yet, but maybe we
12 continue these motions to the next hearing date pending Your
13 Honor's ruling.

14 THE COURT: Okay.

15 MR. KOENIG: So I'll turn it over to whoever wants
16 to speak on the RSM fee application.

17 MR. SONTCHI: Good afternoon, Your Honor.
18 Christopher Sontchi, the fee examiner in connection -- the
19 court-appointed fee examiner. I'll let Ms. Frejka go
20 forward with her fee application, but I just want to tell
21 you the current status of it, if I may.

22 THE COURT: Go ahead.

23 MR. SONTCHI: Okay. So this is our last fee
24 application for our responsibility, and I want to start by
25 thanking Ms. Stadler and her team at Godfrey & Kahn for all

1 the hard work they've done in this case. This was a bit of
2 a tricky one for us, and we were having a hard time really
3 communicating our concerns in a way that we could get RSM to
4 understand the issues. Ms. Frejka was hired very recently
5 as counsel, and I just want to say she was tremendously
6 helpful in becoming a go-between and communicating with her
7 client very effectively. We did have -- we issued a couple
8 reports. Ms. Frejka helped her client do an amended fee
9 application. We reviewed that, we did a report on that, and
10 we engaged in a negotiation.

11 I'm very happy to say that we reached a resolution
12 of all our issues and have agreed to the amount that is
13 being set forth in the proposed order, which is a
14 substantial reduction from the amount originally sought.
15 But look, there's no question that RSM did the work.
16 There's no question that they should be compensated. We
17 just wanted to make sure that the compensation was
18 appropriate under the applicable law and rules, which we
19 believe we've satisfied ourselves to that. So simply want
20 to let you know that this was a process, that we've agreed
21 to a reduction, and that we support the application and
22 then, unless Your Honor has any questions for me, I would
23 turn it back to you or to Ms. Frejka to make any further
24 comments.

25 THE COURT: All right. I will turn it over to Ms.

1 Frejka. But before I do, I just -- this is, I think, a
2 chance to thank you, Mr. Sontchi and Ms. Stadler, for all
3 the work that was done in connection with the fee
4 applications in this case. It immeasurably reduced the work
5 that would be required by -- certainly by my chambers and I
6 believe also reduced the work required by the U.S. trustee's
7 office. So this has been an expensive case, which is not
8 surprising given the magnitude of the case. I'm very
9 appreciative of all that you've done in this case, Mr.
10 Sontchi, and you, Ms. Stadler, and your colleagues have
11 done. Ms. Frejka, let me call on you.

12 MS. FREJKA: Good afternoon, Your Honor. As
13 always, it is a pleasure to appear before you. This is a
14 difficult matter. This is the last fee application. I
15 think there have been lessons learned on all sides here,
16 including when to engage counsel, when to get counsel
17 involved in an area that may not be your area of expertise.
18 But I think we've come to a reasonable outcome.

19 RSM U.S. LLP filed an amended and restated fee
20 application on July 26th at Docket Number 7555. We believe
21 that it more substantially complied with the guidelines and
22 that, with the reduction that has been agreed to, should
23 resolve this issue. To the extent that you have any
24 questions about the work performed or any aspect of the fee
25 application, I do have a client representative, Howard

1 Siegal, is on the line and should be visible to Your Honor
2 as well.

3 THE COURT: So just so that the record is
4 sufficiently clear, so the amended and restated fee
5 application is filed as ECF Docket 7555. Maybe you would
6 just, in summary fashion, indicate what the original
7 application was --

8 MS. FREJKA: Yes.

9 THE COURT: -- what the amended application, I
10 gather, was largely the product of your numerous
11 conversations with Mr. Sontchi and Ms. Stadler to try and
12 resolve this issue. But let's just get the amounts.

13 MS. FREJKA: Certainly, certainly. The RSM fee
14 application was originally filed at Docket Number 4265 on
15 January 8, 2024. It covered the period August 1, 2023
16 through November 9, 2023, and it sought fees in the amount
17 of \$1,247,374.45 and expenses of \$32,003.70. After the fee
18 examiner and his counsel provided a preliminary report and
19 their lack of ability to resolve it, I got involved,
20 reviewed the fee application, renegotiated with the examiner
21 and his counsel, an opportunity to amend and restate and
22 address hopefully most of the issues that were raised as far
23 as guideline compliance.

24 On July 26, 2024, an amended and restated fee
25 application was filed at Docket Number 7555 requesting a

1 reduced amount of fees in the amount of \$1,141,934.75,
2 reflecting approximately \$106,000 in fees that were removed
3 and expenses in the amount of \$26,387.69 or reduced fees of
4 approximately \$5,500. That work was done, with my
5 involvement, to eliminate some of the transitory
6 timekeepers, less clear time entries, some expenses that
7 would not be guideline compliant and the like. And that is
8 the fee application that we negotiated a resolution of.

9 THE COURT: All right. Ms. Cornell, do you want
10 to be heard?

11 MS. CORNELL: No, Your Honor. Thank you.

12 THE COURT: All right. You know, the record
13 consists of the fee examiner's summary report of March 7,
14 2024, which is ECF 4835. The fee examiner's report of June
15 27, 2024, ECF 4970. There's a stipulation and proposed
16 order regarding final fee application, ECF 7523. There is
17 the stipulation and order regarding final fee application of
18 RSM. It's ECF 7524. And then finally, what Ms. Frejka has
19 just described, the amended and restated application of RSM
20 for the period August 1, 2023 through November 9, 2023.
21 That's ECF 7555. And the last thing that's on the docket is
22 the fee examiner's report and recommendation regarding the
23 final fee application of RSM, which is at ECF 7663.

24 The court has reviewed all of it. As is always
25 the case with all fee applications, the approach of the

1 court is not to try and sort of double ding an applicant
2 where they've negotiated in good faith in this case, because
3 there's a fee examiner who's taken his task very seriously.
4 And of course, the U.S. trustee also has an oversight role
5 as well. So I'm pleased to be able to approve the final fee
6 application in the amounts that Ms. Frejka has indicated,
7 fees of \$1,141,934.75 and expenses of \$26,387.59. Do I have
8 those amounts correct?

9 MS. FREJKA: No. No, Your Honor, you need to --
10 you need to deduct the amount that we've agreed with the fee
11 examiner from that, which is \$250,000.

12 THE COURT: Okay.

13 MS. FREJKA: The expenses number is accurate,
14 though.

15 THE COURT: All right. The fee number is the
16 \$1,141,934.75 minus \$250,000. Is that -- do I have that
17 right now?

18 MS. FREJKA: That is correct. That is the one
19 calculation I actually did not do before the hearing, and I
20 apologize.

21 THE COURT: I'm going to count on you all to get
22 that (indiscernible).

23 MS. FREJKA: Yeah.

24 THE COURT: I'm not going to embarrass myself by
25 doing it wrong now. Okay. All right. Thank you very much.

1 MS. FREJKA: Thank you.

2 MS. STADLER: Judge, this is Katie Stadler, on
3 behalf of the fee examiner. I just wanted just to complete
4 the record on that. Docket 7663 has an Exhibit A, which --
5 or, sorry, Schedule A, which shows the adjusted amount in
6 Column 5, which is indeed the math you just outlined. The
7 result is \$891,934.75. And that is the amount that would be
8 reflected in the proposed order that is attached to this
9 report and that we'll submit in Word format right after the
10 hearing.

11 THE COURT: All right, and let me take this
12 opportunity to thank you, Ms. Stadler, for all the work that
13 you and your colleagues at your firm have done in this case
14 as well. As I've said, it's immeasurably assisted the court
15 in what I've always said is the least enjoyable part of my
16 job, which is reviewing fee applications, which I do do.
17 And again, thanks to Mr. Sontchi and to you and your
18 colleagues for doing it, Ms. Frejka, for getting this to a
19 final result. So --

20 MS. STADLER: Thank you, Judge.

21 MR. SONTCHI: Thank you, Your Honor, very, very
22 much.

23 MS. FREJKA: Thank you.

24 THE COURT: That is the last thing on the agenda
25 for today in this case. I do have other hearings coming up.

1 So we are adjourned in Celsius.

2 (Whereupon, at 2:59 PM, these proceedings were
3 concluded)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: September 16, 2024